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Reinterpretation of the Obligation of Marriage Registration Through the Concept of I'lān al-Nikāḥ

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Abstrak

Penelitian ini bertujuan menganalisis kedudukan i'lān al-nikāḥ dalam hukum Islam dan pencatatan perkawinan dalam hukum positif Indonesia, relasi antara keduanya, serta reinterpretasi kewajiban pencatatan perkawinan melalui pendekatan maqāṣid al-syarī'ah. Penelitian ini menggunakan metode hukum normatif dengan pendekatan konseptual, filosofis, dan perundang-undangan. Data diperoleh melalui studi kepustakaan dan dianalisis menggunakan analisis isi. Hasil penelitian menunjukkan bahwa i'lān al-nikāḥ menekankan keterbukaan perkawinan dan pengakuan sosial, sedangkan pencatatan perkawinan menyediakan dokumentasi resmi, kepastian hukum, dan perlindungan hak-hak keluarga. Keduanya memiliki orientasi yang sejalan dalam mewujudkan keterbukaan dan kejelasan status perkawinan, meskipun fungsi hukumnya tidak identik. Ditinjau dari perspektif maqāṣid al-syarī'ah, pencatatan perkawinan mendukung perlindungan keturunan, kehormatan, dan harta serta mencegah kemudaratan akibat ketidakpastian status hukum keluarga. Penelitian ini menemukan bahwa reinterpretasi kewajiban pencatatan perkawinan melalui konsep i'lān al-nikāḥ lebih mengarah pada interpretasi koherensif, yang memandang Pasal 2 ayat (1) dan ayat (2) sebagai satu kesatuan pengaturan yang saling berkaitan. Implikasinya, pencatatan perkawinan perlu dipahami bukan sekadar administrasi, melainkan bagian integral dari pengaturan perkawinan yang menjamin kepastian hukum dan perlindungan keluarga, selaras dengan spirit keterbukaan dalam konsep i'lān al-nikāḥ

Kata Kunci: i'lān al-nikāḥ; pencatatan perkawinan; maqāṣid al-sharī'ah

Abstract

This study examines the position of i'lān al-nikāḥ in Islamic law and marriage registration in Indonesian positive law, their relationship, and the reinterpretation of the obligation of marriage registration through the maqāṣid al-sharī'ah approach. Using a normative legal method with conceptual, philosophical, and statutory approaches, the study relies on library research and content analysis. The findings reveal that i'lān al-nikāḥ emphasizes marital transparency and social recognition, while marriage registration provides official documentation, legal certainty, and protection of family rights. Although their legal functions differ, both share a common objective of ensuring openness and clarity in marital status. From the perspective of maqāṣid al-sharī'ah, marriage registration supports the protection of lineage, dignity, and property, while preventing harm arising from uncertainty in family legal status. This study further finds that reinterpreting the obligation of marriage registration

through the concept of i'lān al-nikāḥ leads to a coherent interpretation of Article 2(1) and Article 2(2) as an integrated regulatory framework. Accordingly, marriage registration should be understood not merely as an administrative requirement but as an integral component of marriage regulation that ensures legal certainty and family protection, in line with the principle of openness embodied in i'lān al-nikāḥ.

Keywords: *i'lān al-nikāḥ; marriage registration; maqāṣid al-sharī'ah*

INTRODUCTION

Marriage is a union between a man and a woman that gives rise to moral, social, and legal consequences[1]. In Islam, marriage is regarded as a *mīṡāqan ghalīẓan* (solemn covenant)[2], which not only legitimizes the marital relationship but also establishes reciprocal rights and obligations between the spouses[3]. Its legal consequences extend to spousal rights and duties, the determination of lineage, maintenance obligations, kinship relations, and issues of property and inheritance[4]. Given these far-reaching effects, marriage requires legal certainty and verifiable recognition, both within society and in relation to the state[5].

Law No. 1 of 1974 on Marriage provides in Article 2(1) that the validity of a marriage is determined by the parties' respective religious laws and beliefs, while Article 2(2) requires every marriage to be officially registered in accordance with prevailing legislation[6]. These provisions have given rise to two competing interpretations: a differential interpretation, which separates marital validity from registration, and a coherent interpretation, which views them as interrelated norms[7]. This debate raises a fundamental question regarding the status of marriage registration: whether it merely serves as administrative evidence or functions as a legal instrument for ensuring legal certainty and protecting family rights.

The grammatical interpretation of Article 2 of the Marriage Law must preserve the separate propositions in its two paragraphs: religious validity in Article 2(1) and the legal duty of registration in Article 2(2). Read systematically with implementing regulations and court procedures, the second provision establishes public

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[1] Muhammad Husni Abdulah Pakarti, Wahyudi, Ah. Fathonih, Fauzan Ali Rasyid & Husain, "The Construction of Islamic Law on Marriage: A Normative Study of Rights, Harmony, and Its Limits" 2 (2025): 100, https://doi.org/10.63142/al-battar.v2i2.172.

[2] Kurniasih Fitri Maulinda, Layla Waffa Purnama, Mauna Aulia Marelyno, Mutmainah, Salamah, Saroh Sa'diyah, Febryan Hidayat & Abdullah Muhammad Yahya, "Review of Islamic Family Law: Social Implications and Juridical Implementation in the Family Context in Indonesia," *Demak Universal Journal of Islam and Sharia* 2, no. 3 (2024): 273, https://doi.org/10.61455/deujis.v2i03.159.

[3] Norcahyono, Alaiddin Koto, Muhammad Hanafi, Ridha Mulyani & Noraya Safitri, "Analysis of the Nature Marriage in the Perspective of Islamic Family Law," *Jurnal Elsyakhshi* 2, no. 1 (2024): 18, https://doi.org/10.69637/jelsy.v2i1.43.

[4] Sifa Mulya Nurani, "Relasi Hak Dan Kewajiban Suami Istri Dalam Perspektif Hukum Islam (Studi Analitis Relevansi Hak Dan Kewajiban Suami Istri Berdasarkan Tafsir Ahkam Dan Hadits Ahkam) Sifa," *Al-Syakhsiyyah: Journal of Law and Family Studies* 3, no. 1 (2021): 111, https://doi.org/10.21154/syakhsiyyah.v3i1.2719.

[5] Tuba Erkoc Baydar, "A Secret Marriage and Denied Rights: A Critique from an Islamic Law Perspective," *Religions* 14, no. 4 (2023): 12–13, https://doi.org/10.3390/rel14040463.

[6] Republik Indonesia, "Undang-Undang Nomor 1 Tahun 1974 Tentang Perkawinan" (1974), pasal 2 ayat (1) dan (2), https://peraturan.bpk.go.id/Download/36382/UU Nomor 1 Tahun 1974.pdf.

[7] Toha Ma'arif, "Pencatatan Perkawinan (Analisis Dengan Pendekatan Qiyas, Istihsan, Sadd Al- Dzari'ah, Maslahah Mursalah Dan Hukum Positif Di Indonesia)," *Asas: Jurnal Hukum Ekonomi Syariah* 11, no. 1 (2019): 136–37, https://doi.org/10.24042/asas.v11i01.4647.

documentation and a means of legal proof; it should not be treated, without explicit doctrinal support, as either legally optional or a universal condition of religious validity. The article therefore distinguishes validity under the relevant religious law, compliance with state registration, and later judicial proof of an existing marriage.[8]

The debate over the status of marriage registration remains highly relevant, as unregistered marriages continue to pose legal challenges in Indonesia. According to Abu Rokhmad, Director General of Islamic Community Guidance at Indonesia's Ministry of Religious Affairs, the number of registered marriages generally declined between 2018 and 2024 before showing a slight increase in 2025. This trend is illustrated in the following figure.

Figure 1. Number of Registered Marriages in Indonesia, 2018–2025



Source: Official website of the Ministry of Religious Affairs of the Republic of Indonesia[9].

As shown in the figure, the number of registered marriages declined from 2,016,171 in 2018 to 1,478,302 in 2024. Although the figure increased slightly to 1,480,048 in 2025, representing a 0.12% rise from the previous year, it remained approximately 26.6% below the 2018 level. While these data do not by themselves indicate an increase in unregistered marriages, they provide an important empirical context for examining the role and significance of marriage registration.

The national series concerns recorded marriages and should not be used as a proxy for the prevalence of unregistered marriages. From 2,016,171 in 2018 to 1,478,302 in 2024, the descriptive change is approximately −26.7%; from 1,478,302 in 2024 to 1,480,048 in 2025, the change is approximately +0.12%. These percentages require confirmation against the underlying official statistical releases, including their units, territorial coverage and methodology. Changes in population cohorts, registration access, administrative backlog or reporting may contribute to the recorded trend. Neither a rise in isbat petitions nor a decline in registered marriages proves an increase in secret marriages without a comparable denominator.

[8] Republic of Indonesia, Law Number 1 of 1974 concerning Marriage, arts. 2(1)–(2); Government Regulation Number 9 of 1975 concerning Implementation of the Marriage Law.

[9] Abu Rokhmad, "Rekonstruksi Alasan Isbat Nikah," Kementerian Agama Republik Indonesia, 2026, https://kemenag.go.id/opini/rekonstruksi-alasan-isbat-nikah-knfke.

In Islamic law, the concept of *iʿlān al-nikāḥ* refers to the public announcement of a marriage to ensure its openness and distinguish it from concealed unions[10]. Although it is associated with witnesses, public notification, and *walīmat al-ʿurs*, each serves a distinct function[11]. Witnesses relate to the validity of the marriage contract in certain schools of law[12], while *walīmat al-ʿurs* is a recommended social celebration[13]. By contrast, *iʿlān al-nikāḥ* aims to prevent secrecy by making the marriage publicly known[14]. This principle of openness provides a useful framework for reexamining the philosophy of marriage registration in Indonesia, particularly in relation to its administrative function, legal certainty, and protection of family rights.

Previous studies have examined marriage registration from the perspectives of harm prevention, legal validity, and family protection. Rohman and Mohsi (2017) analyzed *iʿlān al-nikāḥ* through *sadd al-dharīʿah*; Kori and Amran (2021) explored marriage registration as a condition of marital validity in the thought of *Khoiruddin Nasution*; Buamona (2022) examined its relationship with administrative compliance; Baydar (2023) investigated the views of the four Sunni schools on witnesses and marriage publicity in protecting parties to secret and unregistered marriages; and Indra and Harianto (2026) reinterpreted *iʿlān al-nikāḥ* in relation to *nikah siri* and mandatory marriage registration. Despite these contributions, limited attention has been paid to reinterpreting the obligation of marriage registration through the concept of *iʿlān al-nikāḥ* and examining its implications for the interpretation of Article 2 of the Marriage Law from the perspective of *maqāṣid al-sharīʿah*. Addressing this gap, the present study proposes a reinterpretation of the obligation of marriage registration.

Based on these issues, the discussion is guided by three main questions: What is the position of *iʿlān al-nikāḥ* in Islamic law and of marriage registration in Indonesian positive law? How are these two concepts related? And how can the philosophy underlying the obligation of marriage registration be reinterpreted through the concept of *iʿlān al-nikāḥ* from the perspective of *maqāṣid al-sharīʿah*?

RESEARCH METHOD

This study employs a normative legal research method using conceptual, philosophical, and statutory approaches. The conceptual approach is used to examine the concept of *iʿlān al-nikāḥ* in Islamic law, the philosophical approach to explore the values and objectives underlying marriage registration, and the statutory approach to analyze the legal provisions governing marriage registration in Indonesia. The research data consist of primary, secondary, and tertiary legal materials.

Data were collected through library research by reviewing relevant sources, including the Qur'an, ḥadīth, legislation, classical fiqh works, books, journal articles, and

[10] Moh Mujibur Rohman and M Mohsi, "Konstruksi I'lan Al-Nikah Dalam Fiqh Pancasila (Telaah Pencatatan Perkawinan Perspektif Sad Al-Dzariah)," *Ulumuna: Jurnal Studi Keislaman* 3, no. 1 (2017): 16, https://doi.org/10.36420/ju.v3i1.3916.

[11] Chaula Luthfia & Hamdan Arief Hanif, "Urgensi Pencatatan Perkawinan Perspektif Hukum Islam," *Sahaja: Journal Shariah And Humanities* 1, no. 2 (2022): 89, https://doi.org/10.61159/sahaja.v1i2.21.

[12] Fatimah Fatimah , Mhd. Amar Adly & Heri Firmansyah, "Dalil Hukum Wali, Saksi Dan Usia Menikah," *Student Research Journal* 3, no. 1 (2025): 144–145, https://doi.org/10.55606/srj-yappi.v3i1.1710.

[13] M. Dzikrullah Faza, "Tinjauan Fiqih Empat Mazhab Terhadap Acara Walimah," *Al Fuadiy: Jurnal Hukum Keluarga Islam* 4, no. 2 (2022): 19–20, https://doi.org/10.55606/af.v4i2.51.

[14] Chaula Luthfia & Hamdan Arief Hanif, "Urgensi Pencatatan Perkawinan Perspektif Hukum Islam," 89.

other scholarly materials related to marriage registration and the concept of *i'lān al-nikāḥ*. The collected data were then analyzed using content analysis to identify, examine, and interpret the substance of *i'lān al-nikāḥ* and its relevance to the obligation of marriage registration within the contemporary legal system.

The doctrinal coding proceeds in four steps. First, it separates the source texts governing religious validity, witnessing, publicity and administrative registration. Second, it records disagreement among juristic schools rather than conflating witness presence, the wali, the wedding feast and public announcement. Third, it compares Article 2(1) and 2(2) with state implementation and routes of judicial proof. Fourth, the maqāṣid analysis tests identifiable harms to spouses and children and assesses whether registration offers proportionate protection. Primary editions and relevant hadith authentication must be pinpointed before an attribution is treated as conclusively verified.

RESULTS AND DISCUSSION

The Concept of *I'lān al-Nikāḥ* in Islamic Law

In Islamic law, marriage is not merely a legal bond between husband and wife but also a social institution associated with family recognition, certainty of lineage, and the protection of the rights and obligations of the parties involved[15]. In practice, a marriage is assessed not only by the fulfillment of its essential elements and legal requirements but also by its openness and recognition within the community[16]. Within this context, the concept of *i'lān al-nikāḥ* occupies an important position in Islamic jurisprudence. Linguistically, *i'lān* (إعلان) is derived from the root *a'lana-ya'linu-i'lānan* (أَعْلَنَ–يُعْلِنُ–إِعْلَانًا)[17] which means to disclose, declare, or publicly announce something[18], The term *nikāḥ* (نكاح), meanwhile, derives from *nakaha-yankihu-nikāḥan* (نَكَحَ–يَنْكِحُ–نِكَاحًا)[19] which literally means to marry or enter into marriage[20]. Terminologically, Abu Malik Kamal Ibn al-Sayyid Salim defines *i'lān al-nikāḥ* as follows:

إِعْلَانُ النِّكَاحِ هُوَ إِظْهَارُهُ وَإِشَاعَتُهُ بَيْنَ النَّاسِ.

"I'lān al-nikāḥ is the disclosure and public dissemination of a marriage within society"[21].

This definition indicates that *i'lān al-nikāḥ* is not merely a marriage ceremony but a principle of marital openness aimed at clarifying the status of the marital relationship, preventing suspicion and disputes, and securing social recognition for

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[15] Dwi Dasa Suryantoro, "Pencatatan Perkawinan Sebagai Instrumen Perlindungan Keluarga: Analisis Maslahah Mursalah Perspektif Usul Fiqh," *Asa: Jurnal Kajian Hukum Keluarga Islam* 8, no. 1 (February 27, 2026): 47, https://doi.org/10.58293/asa.v8i1.223.

[16] Muhammad Ichwan Zulfadly and Amar Adly, "Rukun Dan Syarat Nikah: Perbandingan Mazhab Dan Praktik Kantor Urusan Agama (KUA)," *Mesada: Journal of Innovative Research* 3, no. 1 (2026): 377, https://doi.org/10.61253/q1vjcv49.

[17] Ahmad Mukhtar 'Umar, *Mu'jam Al-Lughah Al-'Arabiyyah Al-Mu'asirah* (Kairo: 'Alam al-Kutub, 2008), 2: 1545, https://shamela.ws/book/29511.

[18] Muhammad ibn Mukarram Ibn Manzur, *Lisan Al-'Arab* (Beirut: Dar Sadir, 1994), 13: 288, https://shamela.ws/book/1687.

[19] Ahmad Mukhtar'Umar, *Mu'jam Al-Lughah Al-'Arabiyyah Al-Mu'asirah*, 3: 2278.

[20] Al-Khalil bin Ahmad Al-Farahidi, *Kitab Al-'Ain* (Baghdad: Dar wa Maktabah al-Hilal, 1985), 3: 63, https://shamela.ws/book/1682.

[21] Abu Malik Kamal bin as-Sayyid Salim, *Shahih Fiqh As-Sunnah Wa Adillatuh Wa Taudhih Madzahib Al-A'immah* (Kairo: Al-Maktabah At-Taufiqiyyah, 2003), 3:178, https://shamela.ws/book/13619.

the marriage.[22] Accordingly, *iʿlān al-nikāḥ* extends beyond any particular ritual and may be realized through public announcement, an openly conducted marriage, or *walīmah*.

Although the Qur'an does not explicitly regulate marriage registration or *iʿlān al-nikāḥ*, several verses emphasize the importance of openness in marital relations. Q. 4:21 describes marriage as a *mīṡāqan ghalīẓan* (solemn covenant)[23], establishing rights and obligations for the spouses[24]. Likewise, Q. 5:5, through the phrase *muḥṣinīna ghaira musāfiḥīna wa lā muttaḫiżī akhdān* (مُحْصِنِيْنَ غَيْرَ مُسٰفِحِيْنَ وَلَا مُتَّخِذِيْٓ اَخْدَانٍ) underscores the preservation of chastity through lawful marriage and the avoidance of both public and clandestine illicit relationships[25]. These values provide a normative basis for the openness and public recognition of marital status in social life.

A more explicit foundation for *iʿlān al-nikāḥ* can be found in the traditions of the Prophet Muhammad (peace be upon him). One such narration is reported from Aisha (may Allah be pleased with her) as follows:

حَدَّثَنَا أَحْمَدُ بْنُ مَنِيعٍ، حَدَّثَنَا يَزِيدُ بْنُ هَارُونَ، قَالَ: أَخْبَرَنَا عِيسَى بْنُ مَيْمُونٍ الْأَنْصَارِيُّ، عَنِ الْقَاسِمِ بْنِ مُحَمَّدٍ، عَنْ عَائِشَةَ، قَالَتْ: قَالَ رَسُولُ اللَّهِ ﷺ: (أَعْلِنُوا هَذَا النِّكَاحَ، وَاجْعَلُوهُ فِي الْمَسَاجِدِ، وَاضْرِبُوا عَلَيْهِ بِالدُّفُوفِ) .رَوَاهُ التِّرْمِذِيُّ

"Aḥmad ibn Manīʿ narrated to us, saying: Yazīd ibn Hārūn narrated to us; he said: ʿĪsā ibn Maimūn al-Anṣārī informed us from al-Qāsim ibn Muḥammad, from ʿĀ'ishah, who reported that the Messenger of Allah (peace be upon him) said: *'Publicize this marriage, conduct it in the mosques, and beat the duff (tambourine) for it.'"* (Reported by al-Tirmidhī, No. 1089).[26].

The imperative *aʿlinū* in this ḥadīth encourages the public announcement of marriage so that it is known to the community rather than being kept secret (*al-isrār*) or concealed (*al-ikhfā'*)[27]. The references to the *duff* and the mosque further indicate that marriage should be publicly acknowledged and celebrated within the community[28]. Nevertheless, al-Tirmidhī classified the narration as *gharīb ḥasan*, and one of its transmitters, ʿĪsā ibn Maimūn al-Anṣārī al-Wāsiṭī, was considered *ḍaʿīf*, although another transmitter bearing the same name, ʿĪsā ibn Maimūn al-Makkī, was regarded as *thiqah*.[29]. Consequently, this narration should not be treated as the sole legal basis for *iʿlān al-nikāḥ* but should be read alongside other traditions concerning the public announcement and conduct of marriage. Additional support for the

[22] 'Abdullah bin 'Abdurrahman Ibn Jibrin, *Syarh Akhshar Al-Mukhtasharat* (Doha: Mawqi' asy-Syabakah al-Islamiyyah/ Maktabah asy-Syamilah, 2010), 61: 25, https://shamela.ws/book/7725.

[23] Henri Shalahuddin, M Sofian Hidayat, Allam Setiawan N, M Ammar Tsaqib & Ahmad Jamil, "Konsep Mītsāqan Ghalīzhan Sebagai Solusi Cara Pandang Feminis Tentang Konsep Pernikahan," *Journal of Islamic and Occidental Studies (JIOS)* 1, no. 2 (2023): 201, https://doi.org/10.21111/jios.v1i2.23.

[24] Nurani, "Relasi Hak Dan Kewajiban Suami Istri Dalam Perspektif Hukum Islam (Studi Analitis Relevansi Hak Dan Kewajiban Suami Istri Berdasarkan Tafsir Ahkam Dan Hadits Ahkam) Sifa," 105.

[25] Wahbah Az-Zuhaili, *Tafsir Al-Munir: Aqidah, Syariah, Manhaj*, trans. Abdul Hayyie al-Kattani et al, juz 3 (Jakarta: Gema Insani, 2016), 426–427.

[26] Abu 'Isa Muhammad bin 'Isa At-Tirmidzi, *Al-Jami' Al-Kabir: Sunan at-Tirmidzi*, editor. Bashar 'Awwad Ma'ruf (Beirut: Dar al-Gharb al-Islami, 1996), 2: 384, https://shamela.ws/book/7895.

[27] 'Abdurrahman bin Nashir Al-Barrak, *Al-Jami' Li Fawa'id Bulugh Al-Maram* (Riyadh: Mu'assasah Waqf asy-Syaikh 'Abdurrahman bin Nashir al-Barrak, 2020), 2: 366, https://shamela.ws/book/1492.

[28] Zainuddin Muhammad 'Abdurra'uf Al-Munawi, *At-Taisir Bi Syarh Al-Jami' as-Shaghir* (Riyadh: Maktabah al-Imam asy-Syafi'i, 1988), 1: 167, https://shamela.ws/book/5769.

[29] Abu 'Isa Muhammad bin 'Isa At-Tirmidzi, *Al-Jami' Al-Kabir: Sunan at-Tirmidzi*, 2: 384.

principle of marital openness is found in a ḥadīth narrated by Muḥammad ibn Ḥāṭib al-Jumaḥī, in which the Prophet (peace be upon him) said:

حَدَّثَنَا أَحْمَدُ بْنُ مَنِيعٍ، قَالَ: حَدَّثَنَا هُشَيْمٌ، قَالَ: أَخْبَرَنَا أَبُو بَلْجٍ ، عَنْ مُحَمَّدِ بْنِ حَاطِبٍ الْجُمَحِيِّ ، قَالَ: قَالَ رَسُولُ اللهِ صلى الله عليه وسلم: «فَصْلُ مَا بَيْنَ الْحَرَامِ وَالْحَلَالِ الدُّفُّ وَالصَّوْتُ». رَوَاهُ التِّرْمِذِيُّ. حَدِيثُ مُحَمَّدِ بْنِ حَاطِبٍ حَدِيثٌ حَسَنٌ

"Aḥmad ibn Manīʿ narrated to us, saying: Hushaym narrated to us; he said: Abū Balj informed us from Muḥammad ibn Ḥāṭib al-Jumaḥī, who reported that the Messenger of Allah (peace be upon him) said: *'The distinction between what is lawful and unlawful (in marriage) is the duff and public announcement.'"* (Reported by al-Tirmidhī, No. 1088). This ḥadīth of Muḥammad ibn Ḥāṭib is classified as *ḥasan*.[30].

The term *ad-duff* (الدُّفُّ) refers to a tambourine used as a means of publicizing marriage[31]. Its use serves to strengthen the public recognition of a marriage, since the testimony of two witnesses alone does not fully achieve the objective of informing the wider community, even though it distinguishes marriage from illicit and secret relationships. The term *ṣawt* (الصَّوْتُ), meanwhile, refers to permissible singing, such as songs performed at wedding celebrations, provided they do not contain elements prohibited by Islamic law[32]. Together, these expressions indicate that *iʿlān al-nikāḥ* is realized through socially recognizable forms of public acknowledgment. Accordingly, the substance of the ḥadīth lies in ensuring the openness of marriage rather than requiring the use of a tambourine or any particular form of announcement.

In addition to direct public announcement, marital openness is also manifested through *walīmat al-ʿurs* as a social expression of *iʿlān al-nikāḥ*. This is reflected in the following ḥadīth concerning the wedding feast:

حَدَّثَنَا سُلَيْمَانُ بْنُ حَرْبٍ: حَدَّثَنَا حَمَّادٌ هُوَ ابْنُ زَيْدٍ، عَنْ ثَابِتٍ، عَنْ أَنَسٍ رضي الله عنه، «أَنَّ النَّبِيَّ صلى الله عليه وسلم رَأَى عَلَى عَبْدِ الرَّحْمَنِ بْنِ عَوْفٍ أَثَرَ صُفْرَةٍ قَالَ: مَا هَذَا؟ قَالَ: إِنِّي تَزَوَّجْتُ امْرَأَةً عَلَى وَزْنِ نَوَاةٍ مِنْ ذَهَبٍ، قَالَ: بَارَكَ اللهُ لَكَ، أَوْلِمْ وَلَوْ بِشَاةٍ.» رَوَاهُ الْبُخَارِيُّ

"Anas reported that Sulaymān ibn Ḥarb narrated to us, saying: Ḥammād ibn Zayd narrated to us, from Thābit, from Anas, that the Prophet (peace be upon him) noticed traces of yellow perfume on ʿAbd al-Raḥmān ibn ʿAwf and asked, *'What is this?'* He replied, *'I have married a woman and given her a dowry equivalent to a date-stone's weight of gold.'* The Prophet then said, *'May Allah bless you. Hold a wedding feast (walīmah), even if only with a single sheep.'"* (Reported by al-Bukhārī, No. 5155)[33].

Table 1. Different Legal Functions of Marriage Publicity and Registration

Mechanism	Function	Limits
Witnesses at akad	Evidentiary/religious requirement depending on school	Not a state-issued marriage certificate

[30] Abu 'Isa Muhammad bin 'Isa At-Tirmidzi, *Al-Jami' Al-Kabir: Sunan at-Tirmidzi*, 2: 384.

[31] Abu al-Hasan Muhammad bin 'Abd al-Hadi As-Sindi, *Hashiyah As-Sindi 'ala Sunan at-Tirmidzi* (Beirut: Dar al-Kutub al-'Ilmiyyah, 2021), 2: 102, https://shamela.ws/book/1337.

[32] Muhammad bin Ibrahim bin 'Abdul Latif Al Asy-Syaikh, *Fatawa Wa Rasa'il Samahat Asy-Syaikh Muhammad Bin Ibrahim Bin 'Abdul Latif Al Asy-Syaikh* (Makkah: Matba'ah al-Hukumah, 1979), 10: 215-216, https://shamela.ws/book/8476.

[33] Abu 'Abdillah Muhammad bin Ismail Al-Bukhari, *Sahih Al-Bukhari*, ed. Muhammad Zuhair an-Nashir (Beirut: Dar Thuq an-Najah, 2001), 7: 21, https://shamela.ws/book/1681.

Mechanism	Function	Limits
I'lān al-nikāḥ	Public disclosure and social recognition	Does not by itself create registration record
Walīmah	Social celebration and communication	Not identical to wali or legal registration
State registration	Administrative evidence and access to public services	Does not by itself determine all religious-validity questions
Isbat nikah	Judicial determination in eligible disputes	Limited by jurisdiction and evidentiary requirements

This ḥadīth serves as the basis for the recommendation of *walīmat al-'urs*. The phrase *bārakallāhu laka* reflects the recommendation to offer blessings to the newlyweds, while *aulim* constitutes an instruction to hold a wedding feast, a practice encouraged as a means of *i'lān al-nikāḥ*. The phrase *walau bi-syātin* further indicates that such a feast may be conducted in a simple manner[34]. This recommendation underscores the importance of publicizing marriage to secure social recognition. Nevertheless, the *walīmah* represents only one manifestation of *i'lān al-nikāḥ* and is not the sole means by which a marriage may be publicly announced.

The position of *i'lān al-nikāḥ* can be understood through classical juristic discussions on witnessing and *nikāḥ al-sirr* (secret marriage). Jurists generally agree that *i'lān al-nikāḥ* is recommended (*mandūb*) to ensure that a marriage is publicly known and protected from allegations of zina[35]. However, they differ regarding the relationship between publicity, witnessing, and the legal consequences of secret marriages. The Ḥanafī school regards the presence of two witnesses as both a condition for validity and a means of publicity, whereas the Mālikī school places greater emphasis on public disclosure and allows the annulment of marriages deliberately kept secret.[36]. The Shāfiʿī and Ḥanbalī schools consider witnessing an essential element of the contract while continuing to recommend public announcement and *walīmah*; secrecy does not invalidate the marriage but is regarded as reprehensible (*makrūh*).[37]. These differences indicate that *i'lān al-nikāḥ* is neither identical to witnessing nor an absolute requirement for the validity of marriage, but rather a mechanism for ensuring the public recognition of marriage within society, with *walīmah* serving as one of its means.

Substantively, *i'lān al-nikāḥ* through *walīmat al-'urs* serves several important purposes: expressing joy over the marriage, distinguishing publicly recognized marriages from secret unions, and securing social recognition[38]. It also functions to

[34] Taqiyuddin Ibn Daqiq Al-'Eid, *Ihkam Al-Ihkam Syarh 'Umdat Al-Ahkam* (Beirut: Dar 'Alam al-Kutub & Dar al-Kutub as-Salafiyyah, 1987), 2: 186, https://shamela.ws/book/1665.

[35] Wizarat al-Awqaf wa asy-Syu'un al-Islamiyyah, *Al-Mawsu'ah Al-Fiqhiyyah Al-Kuwaitiyyah* (Kuwait: Wizarat al-Awqaf wa asy-Syu'un al-Islamiyyah, 1983), 41:225, https://shamela.ws/book/11430.

[36] Lajnah min al-'Ulama', *Mawsu'ah Jamal 'Abd an-Nashir Fi Al-Fiqh Al-Islami* (Kairo: Al-Majlis al-A'la li asy-Syu'un al-Islamiyyah, 1966), 17: 8-9, https://shamela.ws/book/437.

[37] Lajnah min al-'Ulama', *Mawsu'ah Jamal 'Abd an-Nashir Fi Al-Fiqh Al-Islami* (Kairo: Al-Majlis al-A'la li asy-Syu'un al-Islamiyyah, 1966), 17: 9-10, https://shamela.ws/book/437.

[38] Sulaiman bin Muhammad Al-Luhaimid, *Syarh Manhaj As-Salikin Wa Tawdih Al-Fiqh Fi Ad-Din* (Riyadh: Maktabah asy-Syamilah, 2022), 2: 26, https://shamela.ws/book/832.

honor the wife and her family, strengthen social ties, and provide benefits to relatives, neighbors, and those in need[39]. More importantly, *i'lān al-nikāḥ* clarifies marital status, facilitates the identification of potential fosterage *(raḍā')* impediments, and safeguards the rights of wives and children, particularly in polygamous marriages, including inheritance rights.[40].

Substantively, *i'lān al-nikāḥ* functions as a social mechanism for ensuring the clarity of marital status, protecting lineage, preventing the concealment of family relationships, and securing social recognition for married couples.[41]. However, social and institutional developments have transformed the way family relationships are verified[42]. While witnesses, family reputation, and public announcement once served as sufficient means of proof, contemporary societies characterized by high mobility increasingly require valid written documentation[43]. Oral testimony and community knowledge may become unreliable due to relocation, the death of witnesses, or legal disputes.[44]. Consequently, the state administers marriage registration to produce authentic legal documents that provide reliable evidence and legal certainty[45].

Marriage Registration in Indonesian Positive Law

The regulation of marriage in Indonesian positive law integrates religious validity with legal-administrative requirements[46]. This framework is reflected in Article 2 of Law No. 1 of 1974 on Marriage. Article 2(1) provides that a marriage is valid if conducted according to the religious law and beliefs of the parties, while Article 2(2) requires every marriage to be registered in accordance with applicable legislation[47]. These provisions demonstrate that, in addition to recognizing religious validity, national law requires marriage registration as a mechanism for state recognition and legal protection.[48]. Accordingly, registration is not intended to replace

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[39] Khalid bin 'Ali Al-Musyaiqih, *Al-Mukhtashar Fi Al-Ankihah Wa Al-Ath'imah Wa Al-Aiman Wa an-Nudzur* (Kuwait: Dar Raka'iz, 2019), 60, https://shamela.ws/book/1576.

[40] Muhammad Shalih Al-Munajjid, *Durus Li Asy-Syaikh Muhammad Al-Munajjid* (Doha: Mawqi' asy-Syabakah al-Islamiyyah/ Maktabah asy-Syamilah, 2011), 171: 7, https://shamela.ws/book/7704.

[41] Hanif, "Urgensi Pencatatan Perkawinan Perspektif Hukum Islam," 90–91.

[42] Rima Rahmayani Tanjung, Muhammad Amar Adly & Heri Firmansyah, "Implementasi Kaidah Al-Yaqīnu Lā Yuzālu Bi Al-Syak Dalam Hukum Keluarga Islam: Analisis Qawā'id Fiqhiyyah Terhadap Kepastian Hukum, Pembuktian, Dan Perlindungan Hak Keluarga," *Tabayyanu: Journal of Islamic Law* 2, no. 1 (2025): 30, https://doi.org/10.66174/wwj4ps33.

[43] Idrus M. Said, Asbar Tantu & Ali Zainal Abidin, "Saksi Nikah: Kajian Kombinasi Tematik Dan Holistik Dalam Kontekstualisasi Hukum Pernikahan Islam," *Al-Mashadir: Jurnal Ilmu Hukum Dan Ekonomi Islam* 5, no. 2 (2023): 84–85, https://jurnalfaiunisa.com/index.php/JAM/article/view/18.

[44] Datuk Pituah Fahmi Surbakti & Tri Eka Putra M. Waruwu, "Isbat Nikah as Solution to The Legality of Siri Marriage: A Case Study at The Binjai Religious Court," *El-Ahli: Jurnal Hukum Keluarga Islam* 6, no. 2 (2025): 178, https://doi.org/10.56874/el-ahli.v6i2.2448.

[45] Luna Hawa Fitrah Takdir, Feby Sevina Maurian, Felia Ardiamesti Putri, Alexa Zhafirah Ramadhani, Kaysha Cantika Putri Gunadi & Baidhowi, "Pencatatan Perkawinan Tidak Tercatat (Nikah Siri) Dalam Pandangan Hukum Islam Dan Implikasinya Terhadap Kepastian Hukum," *Tashdiq: Jurnal Kajian Agama Dan Dakwah* 17, no. 4 (2025): 688, https://cibjournal.com/index.php/tashdiq/article/view/3959.

[46] Ravicha Selvia Nur Azizah, Abdul Kadir Sabaruddin, and Yennita Astarina, *Praktik Perkawinan Dengan Model Dua Tata Cara Keagamaan Dalam Perspektif Hukum Perkawinan Di Indonesia (Studi Penetapan Nomor 916/Pdt.P/2022/PN.Sby)*, *Indonesian Journal of Law and Justice*, vol. 4, 2026, 56, https://doi.org/10.47134/ijlj.v4i1.6349.

[47] "Undang-Undang Nomor 1 Tahun 1974 Tentang Perkawinan", pasal 2 ayat (1) dan (2).

[48] Ahmad Fauzi, Yogi Sopian Haris, & Muhammad Syarqowi, "Analysis of Legal Certainty in Indonesia: An Evaluation of Marriage Registration in The Context of Contemporary Islamic Family Law," *Usroh: Jurnal Hukum*

the religious validity of marriage but to incorporate a valid marriage into the state's legal and administrative system.

The legal status of marriage registration as a legal obligation has been further reinforced by regulations enacted after the Marriage Law. The *Compilation of Islamic Law* (1991) requires every marriage to be registered to ensure legal order among Muslims and recognizes marriage certificates as valid proof of marriage, while marriages conducted outside the supervision of Marriage Registrars lack legal force[49]. Likewise, Law No. 23 of 2006 on Population Administration makes marriage registration a prerequisite for recording various family-related legal events[50]. The consistency of these regulations demonstrates that marriage registration has become an integral component of Indonesia's family law system. It is therefore not merely an administrative formality but a legal instrument through which the state grants recognition and protection to marriage and its legal consequences[51].

Marriage registration serves to provide official documentation of marital status.[52]. A marriage certificate functions as authentic evidence of a registered marriage and plays a crucial role in resolving disputes concerning marital status, divorce, the legal status of children, and other family law matters.[53]. Without registration, proof of marriage often relies on witness testimony or indirect evidence, which offers less legal certainty than official documentation[54]. For this reason, the evidentiary function of marriage registration constitutes one of the principal grounds for its mandatory status under Indonesian law.

Beyond its evidentiary function, marriage registration provides legal certainty regarding the relationships and legal consequences arising from marriage[55]. Such certainty underpins the rights and obligations of spouses and children, including maintenance, inheritance, marital property, and child custody[56]. In the absence of clear proof of marriage, the enforcement of these rights is more likely to give rise to

Keluarga Islam 9, no. 1 (2025): 85, https://doi.org/10.19109/sy1b3b84.

[49] Instruksi Presiden Republik Indonesia, "Kompilasi Hukum Islam" (1991), pasal 5-7.

[50] Republik Indonesia, "Undang-Undang Nomor 23 Tahun 2006 Tentang Administrasi Kependudukan" (2006), pasal 34.

[51] Prima Resi Putri, "Pencatatan Perkawinan Yang Sah Menurut Hukum Perdata Yang Berlandaskan Undang-Undang Tentang Perkawinan," *Ensiklopedia Sosial Review* 3, no. 1 (2021): 40–41, https://doi.org/10.33559/esr.v3i1.676.

[52] Nur Mohamad Kasim & Lusi Margareth Tijow Nasrudin, "Pencatatan Perkawinan Berdasarkan Penerapan Objektifikasi Hukum Perkawinan Islam Di Indonesia," *Jurnal Syntax Admiration* 2, no. 10 (2021): 1950–51, https://doi.org/10.46799/jsa.v2i10.317.

[53] Iwan Iwan, "Akta Nikah Sebagai Bukti Otentik Perkawinan Di Indonesia; Analisis Maqashid Syariah Terhadap Pencatatan Perkawinan," *Al-Usrah: Jurnal Al Ahwal As Syakhsiyah* 10, no. 1 (2022): 84, https://doi.org/10.30821/al-usrah.v10i2.14713.

[54] Rafida Sartika Ayu, Aris Prio Agus Santoso, and Taufiq Nur Muftiyanto, "Pembuktian Akta Dibawah Tangan Untuk Digunakan Sebagai Alat Bukti Di Pengadilan," *Rio Law Jurnal* 6, no. 1 (2024): 185, https://doi.org/10.36355/rlj.v6i1.1478.

[55] Yuni Priskila Ginting Ginting et al., "Sosialisasi Kekuatan Alat Bukti Dalam Pembuktian Kasus Hukum Perkawinan," *Jurnal Pengabdian West Science* 2, no. 11 (2023): 1152, https://doi.org/10.58812/jpws.v2i11.760.

[56] Dwi Arini Zubaidah, "Pencatatan Perkawinan Sebagai Perlindungan Hukum Dalam Perspektif Maqasid Asy-Syari'ah," *Al-Ahwal: Jurnal Hukum Keluarga Islam* 12, no. 1 (2019): 21, https://doi.org/10.14421/ahwal.2019.12102.

disputes[57]. By requiring registration, the state provides formal legal evidence that strengthens the protection of marital and family relationships.

Another important function of marriage registration is the protection of the rights of spouses and children.[58] Registration facilitates the enforcement of rights related to maintenance, marital property, and other legal entitlements, while also clarifying family legal status and supporting access to education, healthcare, and civil administration services[59]. Thus, marriage registration protects not only the institution of marriage itself but also the individuals within it.

Marriage registration also supports public administration. Marriage records provide the basis for population administration, including the issuance of family cards and related civil documents, while ensuring the accuracy of demographic data needed for public services.[60]. Accordingly, marriage registration benefits not only spouses but also contributes to administrative order and reliable population records at the national level.

The persistence of unregistered marriages remains a challenge within Indonesia's family law system. One consequence is the need to seek *isbat nikah* through the Religious Courts to obtain legal recognition of marriages that cannot be proven by a marriage certificate[61]. This demonstrates that religious validity alone does not automatically ensure legal certainty. In contemporary society, formal documentation remains essential for establishing marital status and securing civil rights and obligations.

Data from the Riau Statistics Agency (BPS Riau) show that registered marriages fluctuated from 40,301 cases in 2023 to 38,790 in 2024, before rising to 40,269 in 2025[62]. Despite this recovery, unregistered marriages remain a concern in family law practice. Reflecting on this trend, Muhammad Fakhri, Head of the Riau Office of the Ministry of Religious Affairs, suggested that *"the decline in registered marriages may be linked to the practice of nikah siri"*[63]. Although this assumption does not establish a causal relationship, it underscores the need to evaluate the effectiveness of marriage registration and public legal awareness in ensuring legal certainty and protecting family rights.

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[57] Moh Aqil Syofiyullah, Dyah Ochtorina Susanti, and Fendy Setiawan, "Kepastian Hukum Bagi Istri Dan Anak Dalam Perkawinan Tidak Tercatat Di Indonesia," *Hukmy: Jurnal Hukum* 3, no. 1 (2023): 281, https://doi.org/10.35316/hukmy.2023.v3i1.263-284.

[58] Tri Winarni, Akhmad Nadirin, & Ismail Ismail, "Pencatatan Perkawinan Sebagai Upaya Perlindungan Terhadap Perempuan Dan Anak (Studi Kasus Di Kantor Urusan Agama Kecamatan Weru)," *Mahkamah: Jurnal Kajian Hukum Islam* 8, no. 2 (2023): 250, https://doi.org/10.24235/mahkamah.v8i2.15786.

[59] Atistya Dwi Manggala Putri, "Perlindungan Hak Perempuan Dan Anak Melalui Kebijakan Pencatatan Perkawinan Tidak Tercatat," *Reflection Journal* 5, no. 2 (2025): 862, https://doi.org/10.36312/rj.v5i2.3828.

[60] Indra Krestianto et al., "Optimalisasi Pencatatan Perkawinan Untuk Mewujudkan Kepastian Hukum," *Jurnal Pendidikan Indonesia* 6, no. 8 (2025): 4315, https://doi.org/10.59141/japendi.v6i8.8518.

[61] Wahyu Nathasia & Mahlil Adriaman, *Peran Pengadilan Agama Dalam Penetapan Isbat Nikah Bagi Perkawinan Tidak Tercatat*, *Court Review: Jurnal Penelitian Hukum*, vol. 5, 2025, 277–278, https://doi.org/10.69957/cr.v5i05.2444.

[62] Badan Pusat Statistik Provinsi Riau, *Provinsi Riau Dalam Angka 2026* (Pekanbaru: BPS Provinsi Riau, 2026), 250, https://riau.bps.go.id/id/publication/2026/02/27/b759cb7340902bbc1cfd0881/provinsi-riau-dalam-angka-2026.html.

[63] Fernando, "Rincian Pernikahan Tercatat Di Riau per Daerah, Pekanbaru Tertinggi, Tapi Tren Menurun," Tribun Pekanbaru, 2025, https://pekanbaru.tribunnews.com/pekan-life/1094583/rincian-pernikahan-tercatat-di-riau-per-daerah-pekanbaru-tertinggi-tapi-tren-menurun.

The importance of marriage registration is further reflected in the growing number of *isbat nikah* petitions filed by couples lacking marriage certificates as proof of marriage. According to the Annual Reports of the Pekanbaru Religious High Court, Religious Courts within its jurisdiction received 764 *isbat nikah* petitions in 2023, 742 in 2024, and 976 in 2025. The distribution of these cases is presented in Table 1.

Table 1. Number of Isbat Nikah Cases Received by Religious Courts within the Jurisdiction of the Pekanbaru Religious High Court, 2023–2025

Year	Cases Received
2023	764 cases
2024	742 cases
2025	976 cases

Source: Annual Reports of the Pekanbaru Religious High Court, 2023–2025[64].

These distinctions also determine the use of hadith proof. Reports encouraging announcement should be read alongside other sources and their documented grades, rather than supplying an independent modern state-registration rule solely by analogy. Divergent Hanafi, Maliki, Shafi'i and Hanbali discussions of witnesses and concealment must be attributed to identifiable primary texts before being presented as school-wide propositions. The present comparison takes the doctrinal convergence in transparency as a functional insight, not as proof that social publicity and civil registration are identical.

The number of *isbat nikah* petitions increased by 234 cases in 2025 compared with the previous year, indicating that many couples still require judicial recognition of marriages that cannot be proven through marriage certificates. In this context, *isbat nikah* functions as a corrective mechanism for obtaining state recognition of an existing marriage[65], whereas marriage registration serves as a preventive instrument that provides legal certainty and evidentiary force from the outset.[66].

According to Hasan Nul Hakim, a judge of the Bangkinang Religious Court, unregistered marriages (*nikah siri*) may give rise to legal problems concerning inheritance, the legal status of children, and other civil rights. He therefore emphasized that marriage registration is essential for securing legal protection from the state[67]. Consistent with this view, Jumni Nelli finds that *nikah siri*, although religiously valid, exposes women and children to legal and social vulnerabilities because it lacks formal state recognition. Women may face difficulties in claiming

[64] Pengadilan Tinggi Agama Pekanbaru, "Laporan Tahunan Pengadilan Tinggi Agama Pekanbaru," Pengadilan Tinggi Agama Pekanbaru, 2026, https://www.pta-pekanbaru.go.id/kategori/laporan-tahunan.html?Post_sort=post_date.desc.

[65] Mahipal & Yenny Febrianty Uu Lukmanul Hakim, "Perkawinan Tidak Tercatat Dan Pengakuan Negara Terhadap Status Perkawinan Sebagai Perlindungan Hak Keperdataan Keluarga," *Acta Diurnal: Jurnal Ilmu Hukum Kenotariatan* 9, no. 1 (2025): 50, https://doi.org/10.23920/acta.v9i1.2592.

[66] Sutriyono Sutriyono, A Halil Thahir, and Ahmad Sarwini, "Beyond Administration: Reconstructing Marriage Registration as a Preventive Legal Protection for Women and Children in Indonesia," *Journal of Social Studies and Education* 4, no. 1 (2026): 144, https://doi.org/10.61987/jsse.v4i1.3010.

[67] Kamaruddin, "Perkuat Perlindungan Keluarga, PA Bangkinang Gelar Sidang Isbat Nikah Terpadu Di HUT Ke-76 Kampar," Riau Pos, 2026, https://riaupos.jawapos.com/kampar/2602040045/perkuat-perlindungan-keluarga-pa-bangkinang-gelar-sidang-isbat-nikah-terpadu-di-hut-ke-76-kampar#goog_rewarded.

maintenance, inheritance, and marital property rights, while children may encounter uncertainty regarding their legal status and access to civil rights, including support, education, and inheritance from their fathers.[68].

Beyond its impact on civil rights, unregistered marriages also create evidentiary difficulties in legal relationships arising from marriage. In the context of inheritance, Ahmad Zayadi, Director of KUA and Sakinah Family Development at the Ministry of Religious Affairs, emphasized that unregistered marriages may hinder a surviving spouse from proving their status as an heir upon the death of their partner[69]. This illustrates the importance of marriage registration in providing clear legal evidence of marital status. This situation not only prolongs dispute resolution but also creates legal uncertainty for the parties involved[70]. Accordingly, the problem of unregistered marriage extends beyond noncompliance with administrative requirements, affecting the protection of rights, legal certainty, and the ease of proving civil relationships arising from marriage[71].

Taken together, these functions and legal consequences demonstrate that marriage registration plays a vital role in ensuring the transparency, recognition, and legal certainty of marriage. Transparency is reflected in the clear identification of marital status, recognition through official registration and documentation, and legal certainty through the availability of authentic evidence that protects the rights and obligations of the parties involved. These objectives collectively underpin the role of marriage registration within Indonesia's legal system.

To better understand these objectives, it is necessary to examine a concept in Islamic law that shares a similar orientation, namely *i'lān al-nikāḥ*, the public announcement of marriage aimed at ensuring openness and public awareness. This examination provides a basis for identifying the convergence between *i'lān al-nikāḥ* and marriage registration while recognizing their distinct legal contexts and characteristics.

Convergence Between Marriage Registration and I'lān al-Nikāḥ

he convergence between *i'lān al-nikāḥ* and marriage registration lies in their shared objective of ensuring the openness and recognition of marriage. In Islamic law, *i'lān al-nikāḥ* seeks to make marriage publicly known and socially recognized, thereby clarifying the status of the spouses and preventing problems arising from secrecy[72]. Likewise, Indonesian positive law uses marriage registration to provide state recognition, legal certainty, and protection of the rights and obligations of spouses

[68] Jumni Nelli, *Perkawinan Di Bawah Umur Dan Siri Dalam Hukum Perdata Islam Di Indonesia* (Yogyakarta: Kalimedia, 2022), 125–126, https://repository.uin-suska.ac.id/68851/1/6.pdf.

[69] Kementerian Agama RI, "Hindari Nikah Siri, Ini Potensi Dampaknya #2," Kementerian Agama Republik Indonesia, 2026, https://kemenag.go.id/nasional/hindari-nikah-siri-ini-potensi-dampaknya-2-noecf.

[70] Fhlorida Agustina Simanjuntak, "Sengketa Waris Akibat Perkawinan Tidak Tercatat Ditinjau Dari KUHPerdata Dan Undang-Undang Perkawinan," *Jurnal El-Qanuniy: Jurnal Ilmu-Ilmu Kesyariahan Dan Pranata Sosial* 12, no. 1 (2026): 66, https://doi.org/10.24952/el-qanuniy.v12i1.19495.

[71] Arif Zakinnaufal & Mahlil Adriaman, "Kekuatan Hukum Akta Perkawinan Sebagai Bukti Otentik Dalam Sengketa Status Perkawinan," *Sakato Law Journal* 4, no. 1 (2026): 29, https://jurnal.umsb.ac.id/index.php/SLJ/article/view/7312.

[72] Erni Sulhati Roudho Siregar and Uswatun Hasanah, "Problematika Nikah Siri Di Indonesia (Tinjauan Hukum Islam Dan Hukum Nasional)," *Demokrasi: Jurnal Riset Ilmu Hukum, Sosial Dan Politik* 3, no. 1 (2026): 45, https://doi.org/10.62383/demokrasi.v3i1.1507.

and children through official documentation and proof of marital status[73]. Despite operating within different legal frameworks, both institutions pursue the same essential goal: ensuring transparency and recognition of marriage.

Substantively, *i'lān al-nikāḥ* and marriage registration share the same objective: preventing marriage from remaining concealed and ensuring clarity of marital status. The difference lies in the form of recognition they confer: *i'lān al-nikāḥ* secures social recognition, whereas marriage registration provides legal recognition by the state. Their common ground, therefore, lies in promoting transparency and certainty in marital relationships.

In the early Islamic period, *i'lān al-nikāḥ* was practiced in relatively simple communities where public announcements, witnesses, and *walīmat al-'urs* were generally sufficient to ensure that marriages were publicly known. However, growing social mobility and increasingly complex legal and administrative systems have made social recognition alone insufficient to guarantee marital status. In modern societies, family rights and obligations increasingly depend on officially recognized documentation[74].

These social changes shifted the means of ensuring marital transparency from community-based announcements to formal state registration[75]. While openness was once achieved through public disclosure, in modern society it is increasingly secured through official documentation. Thus, what has changed is the mechanism of publicity, not its underlying objective. This development can be explained through the fiqh maxim that legal applications may adapt to changing social conditions:

لا ينكر تغير الأحكام بتغير الأزمان

"It cannot be denied that legal rulings change with the change of times"[76].

This maxim indicates that legal applications may adapt to changing social conditions so long as their underlying objectives remain intact[77]. In the context of marriage, registration can be understood as a contemporary manifestation of marital publicity. Rather than replacing *i'lān al-nikāḥ*, it provides a mechanism better suited to the evidentiary and legal-certainty requirements of the modern state.

This reinterpretation is consistent with the uṣūl al-fiqh maxim:

الوسائل لها أحكام المقاصد

"The means take the ruling of the ends they serve"[78].

This maxim suggests that marriage registration should be understood in light of its objectives, namely ensuring transparency, legal certainty, and the protection of

[73] Dini Handayani Endang Prastini, Yulita Pujilestari, "Implementasi Pencatatan Perkawinan Pasal 2 (2) No 1 Tahun 1974 Tentang Perkawinan," *Wiyatamandala: Jurnal Pendidikan Dan Pengajaran* 4, no. 2 (2024): 60–61, https://doi.org/10.32493/wiyata.v4i2.44946.

[74] Hendri Kori & Husna Farianti Amran, "Registration As A 'Legal' Condition of Marriage (A Study of Khoiruddin Nasution's Thoughts)," *Al-Fikra: Jurnal Ilmiah Keislaman* 20, no. 2 (2021): 103–4, https://doi.org/10.24014/af.v20i2.12644.

[75] Husnul Khitam, "Pencatatan Perkawinan: Suatu Analisis Sejarah Sosial," *Islamitsch Familierecht Journal* 3, no. 2 (2022): 175, https://doi.org/10.32923/ifj.v3i02.2757.

[76] Muhammad Mustafa Az-Zuhaili, *Al-Wajiz Fi Ushul Al-Fiqh Al-Islami* (Damaskus: Dar al-Khair, 2006), 2:451, https://shamela.ws/book/17118.

[77] Muhammad Taufiq and M. Pem. I Tgk. Syarkawi, "Fleksibilitas Hukum Fiqh Dalam Merespons Perubahan Zaman," *Jurnal Al-Nadhair* 1, no. 1 (2022): 62, https://doi.org/10.61433/alnadhair.v1i01.7.

[78] 'Abdul Fattah bin Muhammad Mushilhi, *Jami' Al-Masa'il Wa Al-Qawa'id Fi 'Ilm Al-Ushul Wa Al-Maqashid* (Mansoura, Mesir: Dar al-Lu'lu'ah, 2022), 4: 289, https://shamela.ws/book/30090.

family rights. However, Article 2 of the Marriage Law is often interpreted differentially, treating registration as a purely administrative obligation separate from marital validity. This approach creates a dichotomy between religious validity and administrative registration, reducing registration to a supplementary requirement rather than an integral mechanism for achieving the purposes of marriage.

When interpreted through the concept of *iʿlān al-nikāḥ*, this view appears insufficient. The essence of *iʿlān al-nikāḥ* lies not in the form of publicity but in the objective of ensuring marital openness. Accordingly, marriage registration may be understood as a modern means of achieving the same objective. Whereas early Islamic societies relied on witnesses, public announcements, and *walīmah*, contemporary societies realize marital transparency through registration by authorized institutions.

Based on the concept of *iʿlān al-nikāḥ*, marriage registration may be reinterpreted as a legal instrument of publicity that ensures recognition and legal certainty of marital status. In this sense, registration represents a modern expression of *iʿlān al-nikāḥ* within the framework of a contemporary legal state. It is therefore more than an administrative requirement; it serves to secure transparency, recognition, and legal certainty. This understanding aligns with a coherent interpretation of Article 2 of the Marriage Law, viewing marital validity and registration as complementary elements in achieving legal protection for marriage.

Analysis of Maqāṣid al-Sharīʿah on the Function of Marriage Registration within the Concept of Iʿlān al-Nikāḥ

From the perspective of *maqāṣid al-sharīʿah*, the protection of lineage (*ḥifẓ al-nasl*) is one of the primary objectives of Islamic law, aimed at safeguarding the continuity and clarity of family relationships[79]. This objective is achieved not only through the institution of marriage itself but also through mechanisms that ensure the legal certainty of relationships among spouses and children[80]. Accordingly, the clarity of family identity and status constitutes an essential aspect of *ḥifẓ al-nasl*.

The reinterpretation of marriage registration through *iʿlān al-nikāḥ* views registration not merely as an administrative requirement but as a legal mechanism that ensures the recognition and provability of marriage and family relationships. While *iʿlān al-nikāḥ* emphasizes marital openness, registration provides formal evidence of marital and parental status. Accordingly, the protection of lineage in contemporary society requires not only social recognition but also legal documentation that guarantees certainty in family relations.

In this context, the following fiqh maxim applies:

ما لا يتم الواجب إلا به فهو واجب

"Whatever is necessary for the fulfillment of an obligation becomes obligatory itself"[81].

[79] Muhammad Safwan Harun, "Prinsip Ḥifẓ Al-Nasl Dan Ḥifẓ Al-`Irḍ Dalam Pembentukan Keluarga Sejahtera," *Jurnal Syariah* 33, no. 3 (2025): 337–38, https://doi.org/10.22452/syariah.vol33no3.2.

[80] Muhammad Aqwam Thariq, Moh. Muhibbin, and Nofi Sri Utami, "Protection of Lineage (Hifz Al-Nasl) In Determining The Legal Parentage of Children Born Out of Wedlock: A Normative Analysis And Judicial Practice of The Pringsewu Religious Court," *Sosioedukasi: Jurnal Ilmiah Ilmu Pendidikan Dan Sosial* 15, no. 1 (2026): 600–601, https://doi.org/10.36526/sosioedukasi.v15i1.7329.

[81] Mushilhi, *Jami' Al-Masa'il Wa Al-Qawa'id Fi 'Ilm Al-Ushul Wa Al-Maqashid*, 1: 243.

This maxim indicates that means necessary to achieve a legal objective may acquire binding force themselves[82]. Since the protection of lineage requires clarity of marital and family status, marriage registration becomes an important means of fulfilling that objective. Official documentation of the status of spouses and children also supports the protection of dignity (*ḥifẓ al-ʿirḍ*) by reducing social stigma, disparaging allegations, and uncertainty regarding the status of marriages and children.[83].

Marriage registration may also be viewed as an instrument for preventing *mafsadah*. As discussed above, unregistered marriages can lead to the denial of marital relationships, vulnerabilities for women, disputes over inheritance and marital property, and obstacles to the fulfillment of children's rights[84]. These consequences demonstrate that the absence of registration extends beyond an administrative issue, affecting the ability of family members to establish their legal status and claim their rights.

Within the framework of *maqāṣid al-sharīʿah*, this preventive function can be explained through *sadd al-dharīʿah*, namely blocking avenues that may lead to harm[85]. This approach is reflected in the maxim:

The legal consequences for women and children are differentiated, not categorical. Lack of a marriage certificate can make administrative proof and access to certain services more difficult; it does not by itself establish that lineage, maintenance or inheritance claims are invariably extinguished. Available routes may include competent court proceedings for marriage recognition, proof of parentage and civil-registration corrections, depending on the particular family status and governing law. The maxim mā lā yatimm al-wājib illā bihī supports a proportional argument for an effective means of protecting rights, but does not erase the grammatical distinction between Article 2(1) and Article 2(2).

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"Preventing harm takes precedence over obtaining benefit"[86].

Based on this maxim, a policy may be justified when it prevents greater harm[87]. Marriage registration serves this purpose by providing formal recognition and legal proof of marriage, thereby reducing risks arising from uncertain legal status[88]. It facilitates the protection of family rights in matters such as divorce, inheritance, and

[82] Aisyah Karimah, Faridah Antasya, Agung Nugroho, Suhady & Ali Aminullah, "Analisis Kaidah-Kaidah Fikih Yang Umum: (Ijtihad La Yunqad Bi Al Ijtihad, Ar-Ridha Bisyai Ridha Bima Yatawalad Minhu Dan Ma La Yatimmu Al Wujub Illa Bihi Fahwa Wajib)," *Jurnal Kajian Agama Islam* 8, no. 6 (2024): 415, https://rel.ojs.co.id/index.php/jkai/article/view/298.

[83] Muhammad Indra and Muhammad Indra Lukman Harianto, "Dualisme Keabsahan Nikah Siri Dalam Perspektif Hukum Islam Dan Hukum Positif: Reinterpretasi Konsep I'Lān Al-Nikāh Terhadap Kewajiban Pencatatan Perkawinan Di Indonesia," *Indonesian Journal of Islamic Jurisprudence, Economic and Legal Theory* 4, no. 2 (2026): 2247, https://doi.org/10.62976/ijijel.v4i2.1901.

[84] Jumni Nelli, *Perkawinan Di Bawah Umur Dan Siri Dalam Hukum Perdata Islam Di Indonesia*, 125–26.

[85] Suryantoro, "Pencatatan Perkawinan Sebagai Instrumen Perlindungan Keluarga: Analisis Maslahah Mursalah Perspektif Usul Fiqh," 56.

[86] Mushilhi, *Jami' Al-Masa'il Wa Al-Qawa'id Fi 'Ilm Al-Ushul Wa Al-Maqashid*, 4: 289.

[87] Surya Adi Nugraha et al., "Qawaid Asasiyah يزال الضرر Dan Derivasinya Dalam Praktik Kehidupan Bernegara," *Maliki Interdisciplinary Journal (MIJ)* 4, no. 5 (2026): 550, http://urj.uin-malang.ac.id/index.php/mij/index

[88] Rizki Amar et al., "Kedudukan Pencatatan Terhadap Keabsahan Perkawinan: Telaah Pencatatan Perkawinan," *Jurnal Tana Mana* 5, no. 2 (2024): 223, https://doi.org/10.33648/jtm.v5i2.486.

marital property disputes, while helping to safeguard women and children from legal vulnerability[89]. Accordingly, marriage registration contributes not only to the protection of lineage (*ḥifẓ al-nasl*), but also to the protection of property (*ḥifẓ al-māl*) and dignity (*ḥifẓ al-ʿirḍ*) by minimizing material losses and social stigma resulting from unclear marital status.

Normatively, marriage registration is not explicitly prescribed in the Qur'an or Sunnah as a formal requirement for the validity of marriage[90]. However, its absence from the primary texts does not render it inconsistent with Islamic law. Rather, it may be justified through the concept of *maṣlaḥah mursalah*, namely a public interest that is neither specifically endorsed nor prohibited by the texts but remains consistent with the broader objectives of the Sharīʿah[91]. In this context, the following fiqh maxim applies:

تَصَرُّفُ الْإِمَامِ عَلَى الرَّعِيَّةِ مَنُوطٌ بِالْمَصْلَحَةِ

"The ruler's policies concerning the people must be based on public welfare (*maṣlaḥah*)"[92].

This principle underscores that state authority to enact regulations is not absolute but must serve the public interest[93]. Accordingly, marriage registration may be understood as a legitimate exercise of state authority to ensure legal certainty in marital status, provide reliable evidentiary documentation, and protect family rights.

Based on this analysis, the author argues that interpreting the obligation of marriage registration through the concept of *iʿlān al-nikāḥ* reflects a coherent rather than a differential approach. Marriage registration is thus understood not merely as an administrative requirement justified by practical necessity or harm prevention, but as a modern legal adaptation of Islam's principle of marital openness. Both aim to prevent concealed marriages and ensure clarity in family relationships. Within the framework of *maqāṣid al-sharīʿah*, registration advances these objectives by protecting lineage (*ḥifẓ al-nasl*), dignity (*ḥifẓ al-ʿirḍ*), and property (*ḥifẓ al-māl*), while mitigating harms arising from legal uncertainty. Accordingly, marriage registration may be viewed as a contemporary manifestation of *iʿlān al-nikāḥ*, without equating the two conceptually or treating registration as an explicit scriptural requirement for a valid marriage.

CONCLUSION

This study demonstrates that while *iʿlān al-nikāḥ* in Islamic law emphasizes marital openness and social recognition, marriage registration under Indonesian positive law serves to provide official documentation, legal certainty, and protection of family rights. Their relationship lies in a shared commitment to ensuring transparency and clarity of marital status. In this regard, marriage registration may

[89] Samsudin Buamona B, "Pencatatan Perkawinan: Antara Kepatuhan Administratif Dan Keabsahan Ibadah (Tinjauan Sad Al-Dzari'ah)," *Al-Mizan: Jurnal Kajian Hukum Dan Ekonomi* 8, no. 1 (2022): 104, https://doi.org/10.59115/almizan.v8i01.311.

[90] Muhammad Romli Muar, "Pencatatan Perkawinan Dalam Multi Perspektif," *Maqashid: Jurnal Hukum Islam* 4, no. 1 (2021): 31, https://doi.org/10.35897/maqashid.v4i1.617.

[91] Ma'arif, "Pencatatan Perkawinan (Analisis Dengan Pendekatan Qiyas, Istihsan, Sadd Al- Dzari'ah, Maslahah Mursalah Dan Hukum Positif Di Indonesia)," 133.

[92] Badruddin Muhammad bin 'Abdullah bin Bahadur Az-Zarkasyi, *Al-Mantsur Fi Al-Qawa'id Al-Fiqhiyyah* (Kuwait: Wizarat al-Awqaf al-Kuwaitiyyah, 1985), 1: 309, https://shamela.ws/book/21592.

[93] Suryantoro, "Pencatatan Perkawinan Sebagai Instrumen Perlindungan Keluarga: Analisis Maslahah Mursalah Perspektif Usul Fiqh," 55.

be understood as an institutional development of the principle of openness embodied in *iʿlān al-nikāḥ* to address the legal needs of modern society.

From the perspective of *maqāṣid al-sharīʿah*, marriage registration supports the protection of lineage (*ḥifẓ al-nasl*), dignity (*ḥifẓ al-ʿirḍ*), and property (*ḥifẓ al-māl*), particularly by preventing uncertainty regarding family status and obstacles to the fulfillment of civil rights. Based on a reinterpretation of the philosophical basis of mandatory marriage registration through the concept of *iʿlān al-nikāḥ*, this study identifies a tendency toward a coherent interpretation. This approach places Article 2(1) and Article 2(2) of the Marriage Law within a unified interpretive framework, viewing both the religious validity of marriage and its registration as complementary components of marriage regulation that promote legal certainty and family protection.

As a statement of current law, this article maintains the distinction between religious validity and statutory registration obligations. As a proposal for reform, it recommends accessible registration, legal aid for vulnerable spouses, reliable identity documentation and clear court pathways for remedial proof. These proposals must be legislated or implemented through competent institutions; they are not presented as new rules already binding on judges.

The findings provide a conceptual foundation for strengthening marriage registration policies and enhancing public legal awareness of its importance in securing legal status and safeguarding family rights. Future research should examine the application of coherent interpretation in judicial decisions and marriage administration practices, as well as compare the relationship between *iʿlān al-nikāḥ* and marriage registration in other Muslim-majority countries.

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